

**ZONING BOARD OF APPEALS**

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ZBA 2009-72

Petition of Bryan & Holly Sander
13 Cavanagh Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, October 8, 2009, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of BRYAN & HOLLY SANDER requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing deck and nonconforming garage, construction of a 25 foot by 26.2 foot two-story addition, construction of an 8.8 foot by 26.2 foot deck and construction of a 12.3 foot by 40 foot garage, with less than required side yard setbacks, in a 10,000 square foot Single Residence District, at 13 CAVANAGH ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On September 21, 2009 the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing were Derek Bloom and Bryan Sander (the "Petitioner").

Mr. Bloom said that the proposed house addition is to extend the walls of the existing structure. He said that there are nonconformities on both sides as well as the front yard setback. He said that in no case would they make the setback worse.

Mr. Bloom said that the addition will be a two-story structure, in keeping with the style of the existing home. He said that it will contain a great room with living space and a deck on the first floor and a master suite on the second floor.

Mr. Bloom said that the side yard setback for the existing house is 14.1 feet on the right side and 16.6 feet on the left side. He said that left side yard setback will be 17.1 feet at the back corner of the addition. He said that the addition will be roughly the same depth as the house. He said that the total depth of the existing and proposed construction will be 49.2 feet. He said that the addition is 26.2 feet from side to side.

Mr. Bloom said that the new side entry deck that is 13.6 feet from the left side lot line will be just shy of 21 square feet.

Mr. Bloom said that the left side yard setback for the existing garage is 7.7 feet.

The Board said that there are no dimensions on Plan A01.

Mr. Bloom said that the Sanders met with several of the neighbors. He submitted signatures in support of the project.

Mr. Bloom said that the proposal that was submitted with the application was for a new garage, similar to the old one, but two cars deep and two feet wider. He said that they would like change the request to extend the existing garage or alter it, keeping a large piece of it and not gaining width.

The Board said that the combination of the new addition on the house and the tandem garage would create a wall over 80 feet long on that side of the property.

Mr. Bloom said that the original intent was to move the garage doors back approximately 8 feet and make the new garage two feet wider than the existing garage. He said that the width would be 12.3 feet and the depth would be 40 feet.

The Board said that sliding the garage back 8 feet would provide 4 feet of clearance from the deck.

Mr. Bloom said that the existing garage is 7.7 feet from the side lot line. He said that because of the way the lot tapers, pushing the garage back will give an 8.2 foot setback. The Board said that the right wall could be moved out 2 feet on the conforming side for a one-car garage.

Mr. Bloom asked for clarification. The Board said that the length of the garage cannot be increased. The Board said that the garage can be slid back 8 feet and widened 2 feet on the southerly side. The Board said that the Petitioner should speak with the Building Inspector to determine how much of the existing garage will have to remain.

Mr. Bloom said that he was not sure if pushing the garage back 8 feet will be enough. He asked if the Board would accept the condition that the garage be pushed back enough to give sufficient clearance from the deck.

The Board said that a new plot plan should be submitted showing the location of the new garage and its actual size. The Board said that Plans A01, A21 and A22 should be revised.

There was no present at the Public Hearing who wished to speak to the petition.

Statement of Facts

The subject property is located at 13 Cavanagh Road, in a 10,000 square foot Single Residence District, with a minimum front yard setback of 29 feet, a minimum left side yard setback of 7.7 feet, and a minimum right side yard setback of 14.1 feet.

The Petitioner is requesting a Special Permit/Finding that demolition of an existing deck, construction of a 25 foot by 26.2 foot two-story addition, construction of an 8.8 foot by 26.2 foot deck and reconstruction of an existing nonconforming garage with less than required side yard setbacks shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 8/9/09, stamped by Frank Iebba, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 8/12/09, drawn by Derek Bloom Architects, and photographs were submitted.

On October 7, 2009, the Planning Board reviewed the petition and recommended that the petition be denied.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject structure does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the finding of this Authority that although demolition of an existing deck, construction of a 25 foot by 26.2 foot two-story addition, construction of an 8.8 foot by 26.2 foot deck and reconstruction of an existing nonconforming garage with less than required side yard setbacks is increasing a nonconformity, such increase shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for demolition of an existing deck, construction of a 25 foot by 26.2 foot two-story addition, construction of an 8.8 foot by 26.2 foot deck and reconstruction of an existing nonconforming garage with less than required side yard setbacks, subject to the following conditions:

1. The garage shall be moved back to give sufficient room to clear the new deck by four feet.
2. The Plans shall be revised and re-submitted showing the new garage.
3. The new garage shall be the same depth as the existing garage.
4. The new garage shall come no closer than 8.2 feet to the left side property line.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.

Richard L. Seegel, Chairman

J. Randolph Becker

David G. Sheffield

cc: Planning Board
Inspector of Buildings
lrm